

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5855 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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JADEJA B VAJESINHJI

Versus

STATE OF GUJARAT

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Appearance:

MR PV HATHI for Petitioners

MRS SIDDHI TALATI for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/10/97

ORAL JUDGMENT

#. This Special Civil Application arises in the matter of award of compensation as provided under the provisions of the Saurashtra Estates Acquisition Act, 1952 (hereinafter referred to as 'the Act').

#. The only contention raised by learned counsel for the petitioner is that solatium and interest should have been

awarded to the petitioners on the compensation in accordance with section 23 and 28 of the Land Acquisition Act.

#. The learned counsel for respondents, on the other hand, contended that necessary amendment has not been made in the Land Acquisition Act under which compensation has been awarded to the petitioners. The solatium and interest has been awarded as provided therein. The Gujarat Revenue Tribunal, under the impugned order, held that the Saurashtra Act has not been amended and as such, the solatium and interest has to be awarded as per the provisions therein and the Central Land Acquisition Act is not applicable.

#. The Tribunal has accepted as a fact that the Land Acquisition Act has been amended with retrospective effect by Section 30 of the Land Acquisition Act 1984, but still the amended provisions of that Act were not made applicable on the ground that compensation in the present case has to be awarded as per Section 7 of the Saurashtra Act. It is true that Saurashtra Act has not been amended but when the Central Land Acquisition Act has been amended to the extent of repugnancy in between the Central Act and the State Act, there cannot be any dispute that to the extent of repugnancy the Central Act will apply. The Tribunal has not considered this matter with reference to the aforesaid legal position and as such, I consider it to be appropriate to send the matter back to the Tribunal to decide this question afresh.

#. In the result, this Special Civil Application is allowed and the matter is remanded back to the Gujarat Revenue Tribunal to decide the same within four months from the date of receipt of this order. Rule and Special Civil Application disposed of accordingly. No order as to costs.

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(sunil)